

MOTOR VEHICLES: Dealer's license plates may not be used in the demonstration or transportation of farm tractors.

April 10, 1941

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Captain W. J. Ramsey
Acting Superintendent
Missouri State Highway Patrol
Jefferson City, Missouri



Dear Sir:

We are in receipt of your request for an opinion under date of March 28th based on the following statement of facts:

"2. A dealer, as defined in the Motor Vehicle Law, in Ford automobiles, also sells Fordson farm tractors in connection with his dealership. For the purpose of demonstrating a farm tractor, this dealer recently loaded a tractor on a company-owned trailer bearing his dealer tags, which trailer was pulled by a company-owned car, also bearing dealer tags, and hauled this farm tractor to and from the place of demonstration.

"3. Please advise if, in the opinion of the Attorney General, this is a legitimate use of dealer tags.

"4. The question seems to be whether or not the tractor agency is a part of the registered dealer's business and if dealer tags might be used in the demonstration or transportation of these tractors."

Section 8367, R. S. No. 1939, provides that:

"Wherever in this article, or in any proceeding under this article, the following words or terms are used, they shall be deemed and taken to have the meanings ascribed to them as follows: * * * * *
'Dealer.' Any person, firm, corporation, association, agent or sub-agent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers. * * * * *
'Motor vehicle.' Any self-propelled vehicle not operated exclusively upon tracks, except farm tractors. * * * "

The sale or exchange of new, used or reconstructed farm tractors is not included within the statutory definition of the term "dealer" and farm tractors are excepted within the statutory meaning of the term "motor vehicle."

Section 8371, R. S. Mo. 1939, provides that:

"(a) All manufacturers and dealers shall, instead of registering each motor vehicle manufactured or dealt in, make application upon a blank to be furnished by the commissioner for a distinctive number for all the motor vehicles owned or controlled by such manufacturer or dealer, said application to contain: (1) a brief description of each type of motor vehicle manufactured or dealt in, including character of the motive power, amount thereof, stated in figures of horsepower, and (2) the name and business address of such manufacturer or dealer; (3) the weight and rated live load capacity of commercial motor vehicles.

"(b) Fees and plates for manufacturers and dealers; On the payment of a registration fee of \$21.00 there

shall be assigned to such manufacturer or dealer a certificate of registration in such form as the commissioner shall prescribe, and two sets of number plates bearing such number. As many duplicate sets of number plates as may be desired may be obtained upon the payment of a fee of \$10.50 for each duplicate set.

"(c) Display of duplicate number plates: Such duplicate number plates may be displayed on any motor vehicle used in the business of the manufacturer or dealer, but shall not be displayed on any motor vehicle or trailer used for the private purposes of any such manufacturer, dealer or their employees, or on any motor vehicle or trailer hired or loaned to others.

"(d) The commissioner of motor vehicles shall use all due diligence to ascertain whether applicant is a dealer in fact, and he may regulate the number of plates furnished each dealer."

Under the above section license plates are issued to dealers to be legally used only for the purposes actually incident to the demonstration and sale of motor vehicles or trailers. In the instant case the dealer's license plates are not used on trailers for the purpose of demonstrating and selling same (although same would be sold if there were a buyer) but are used for private purposes, viz., transportation and demonstration of farm tractors.

In the case of *People v. Wirth*, 188 N. W. 390, 1. c. 391, the defendant, employed as a truck driver for the Dodge

Brothers automobile manufacturers, was at the time of his arrest driving a Packard Truck owned by his employer, and carrying dealers license plates. The truck contained a load of automobile parts which were taken to the freight depot.

The Supreme Court of Michigan in passing on the above case had before it a statute very similar to Section 8731, supra. The court said:

"Defendant claims the truck he was driving falls within the provision of the statute permitting a general distinctive number for all motor vehicles owned or controlled by Dodge Bros. With this we cannot agree. The motor truck he was driving was employed in the conduct of the business of Dodge Bros. The statute relates to motor vehicles manufactured by any person or company, and the shipment, delivery, demonstration, and operation thereof in the course of sale upon highways. A motor truck employed in the conduct of the business, whether purchased from another maker or made by the company so devoting the same to purely commercial purposes, such as the trucking business of the company, does not fall within the permitted registration of motor vehicles by manufacturers. Such use is in its very nature a private one, and clearly outside of permitted operation upon the public highways of the motor vehicles manufactured by the company. Nothing in other sections of the statute militates against this view. The law does not admit of manufacturers operating motor trucks upon the highways, in the general conduct of the business of the factory, under a manufacturer's number.

"Every manufacturer of motor vehicles may, instead of registering each motor

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vehicle so manufactured,' make application for and obtain 'a general distinctive number or numbers for all motor vehicles owned or controlled by such manufacturer,' but may not employ motor vehicles under such number or numbers upon the highways in the industrial conduct of the business of the company."

Consequently, we are of the opinion that a registered "dealer" may not use dealer's license plates on trailers which are used in the demonstration or transportation of farm tractors.

Respectfully submitted,

MAX WASSERMAN
Assistant Attorney-General

APPROVED:

VANE C. THURLO
(Acting) Attorney-General

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